

BEFORE THE ENVIRONMENTAL QUALITY BOARD

INDEPENDENCE COAL COMPANY, INC.

Appellant,

v.

Appeal No. _____

**DIRECTORS, DIVISION OF WATER AND
WASTE MANAGEMENT AND DIVISION
OF MINING AND RECLAMATION,
DEPARTMENT OF ENVIRONMENTAL
PROTECTION,**

Appellee.

NOTICE OF APPEAL AND REQUEST FOR STAY

The Appellant named above, Independence Coal Company, Inc., respectfully represents that it is aggrieved by letters of March 8, 2010 denying compliance schedules sought in the following permit applications:

1. Application for Modification No. 15 of NPDES Permit WV1017152
2. Application for Modification No. 23 of NPDES Permit WV1016890
3. Application for Modification No. 5 of NPDES Permit WV1004328
4. Application for Modification No. 21 of NPDES Permit WV1003887

The Appellant therefore prays that this matter be reviewed and that the Board grant the following relief: Reverse the denials of March 8, 2010, and stay the impending expiration of the current compliance schedules pending appeal. In support of the request for a stay, the Appellant states that a stay would simply maintain the status quo; that without a stay, there is still no practicable treatment technology that can be installed in the near future and any immediate requirement to install a particular technology will work an unjust hardship.

The denials of the extension request modifications were arbitrary, capricious and unlawful, and should be overturned.

Dated this 10th day of March, 2010.

INDEPENDENCE COAL COMPANY, INC.
By Counsel

A handwritten signature in dark ink, appearing to read "Robert G. McLusky", is written over a horizontal line.

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